

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 1, 2005 PLANNING COMMISSION MEETING

**P.A.S.:** Special Permit #06006

**PROPOSAL:** To allow the sale of alcoholic beverages for consumption off the premises at a U-Stop convenience store.

**CONCLUSION:** This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption off the premises.

<b><u>RECOMMENDATION:</u></b>	Conditional Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** The remaining portion of Lot 59 I.T. less that portion now right-of-way, located in the SE 1/4 of Section 6, T10N, R7E, Lancaster County, Nebraska.

**LOCATION:** North 33<sup>rd</sup> and Superior Streets

**EXISTING ZONING:** I-1 Industrial

**EXISTING LAND USE:** Vacant

### **SURROUNDING LAND USE AND ZONING:**

North:	L.E.S Substation	P
South:	Vacant	I-1
East:	Automobile Sales	H-3
West:	Vacant & Commercial	P, I-1

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates public and semi-public land uses in this area.

**HISTORY:** December 13, 2004 - CZ#04073 was approved changing the zoning from P to I-1 for this site.

**BACKGROUND:** This request is to allow the sale of alcohol for consumption off the premises at a proposed U-Stop convenience store to be located at 3280 Superior Street. The site plan shows an approximately 4,850 square foot building which is to be designated as the licensed premises.

## **ANALYSIS:**

1. CZ#04073 was approved in 2004 changing the zoning on this site from P to I-1. The P zoning district as previously applied reflected State ownership of a larger tract which included the remaining P-zoned tract to the north and west. The remaining tract is owned by the State of Nebraska, but leased to L.E.S. which has a substation sited there. When the subject parcel was sold by the State to Whitehead Oil Company, the P zoning district was no longer appropriate.

2. **SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

The parking requirement for the I-1 district is one off-street parking space per 1,000 square feet of floor area. This site provides 19 off-street spaces, 14 more than the number required by the Zoning Ordinance based upon 4,850 square foot building.

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.**

This application is for a special permit to allow the sale of alcohol for consumption off the premises. The sale of alcoholic beverages for consumption on the premises is not a part of this proposal and is not being requested.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district.**

The licensed premises is located in the I-1 district. The nearest of any of the above is the R-3 district in excess of 330' away to the north of the licensed premises.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

Any new parking lot lighting is required to be reviewed at the time of building permits and must comply with all lighting regulations including the Parking Lot Lighting Standards of the City of Lincoln Design Standards.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not shown as part of this application. A drive-through car wash facility is shown on the north side of the building but will not include alcohol sales.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are shown as part of this application.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

There is no potential for access doors being located within 150' of a residential district. The nearest residential district is in excess of 330' away to the north of the site.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to the subject premises is from both North 33<sup>rd</sup> Street and Superior Street, neither of which are considered residential streets at this location.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

**(1) Revocation or cancellation of the liquor license for the specially permitted premises; or**

**(2) Repeated violations related to the operation of the permittee's business.**

**(3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

**Planning Commission approval is required for this use.**

**CONDITIONS:**

**Site Specific:**

1. This approval permits the sale of alcohol for consumption off the premises as shown on the attached site plan.

**General:**

2. Before receiving building permits:
  - 2.1 The construction plans comply with the approved plans.

**Standard:**

3. The following conditions are applicable to all requests:
  - 3.1 Before the sale of alcohol for consumption off the premises, all development and construction is to comply with the approved plans.
  - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

SP#06006  
U-Stop - Off sale  
3280 Superior Street

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Prepared by:

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Planner  
February 13, 2006

**OWNER/**

**APPLICANT:** Whitehead Oil Company  
2537 Randolph Street  
Lincoln, NE 68510  
(402) 435-3509

**CONTACT:**

Kent Jagers  
2537 Randolph Street  
Lincoln, NE 68510  
(402) 435-3509



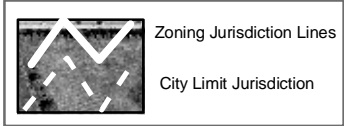
2005 aerial

# **Special Permit #06006** **N 33rd St & Superior St**

## **Zoning:**

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
 Sec. 6 T10N R07E



**Fletcher Ave.**



**Superior St.**

Whitehead Oil Company  
Purpose of Application  
Offsite Alcohol Sales Special Permit  
1/19/06

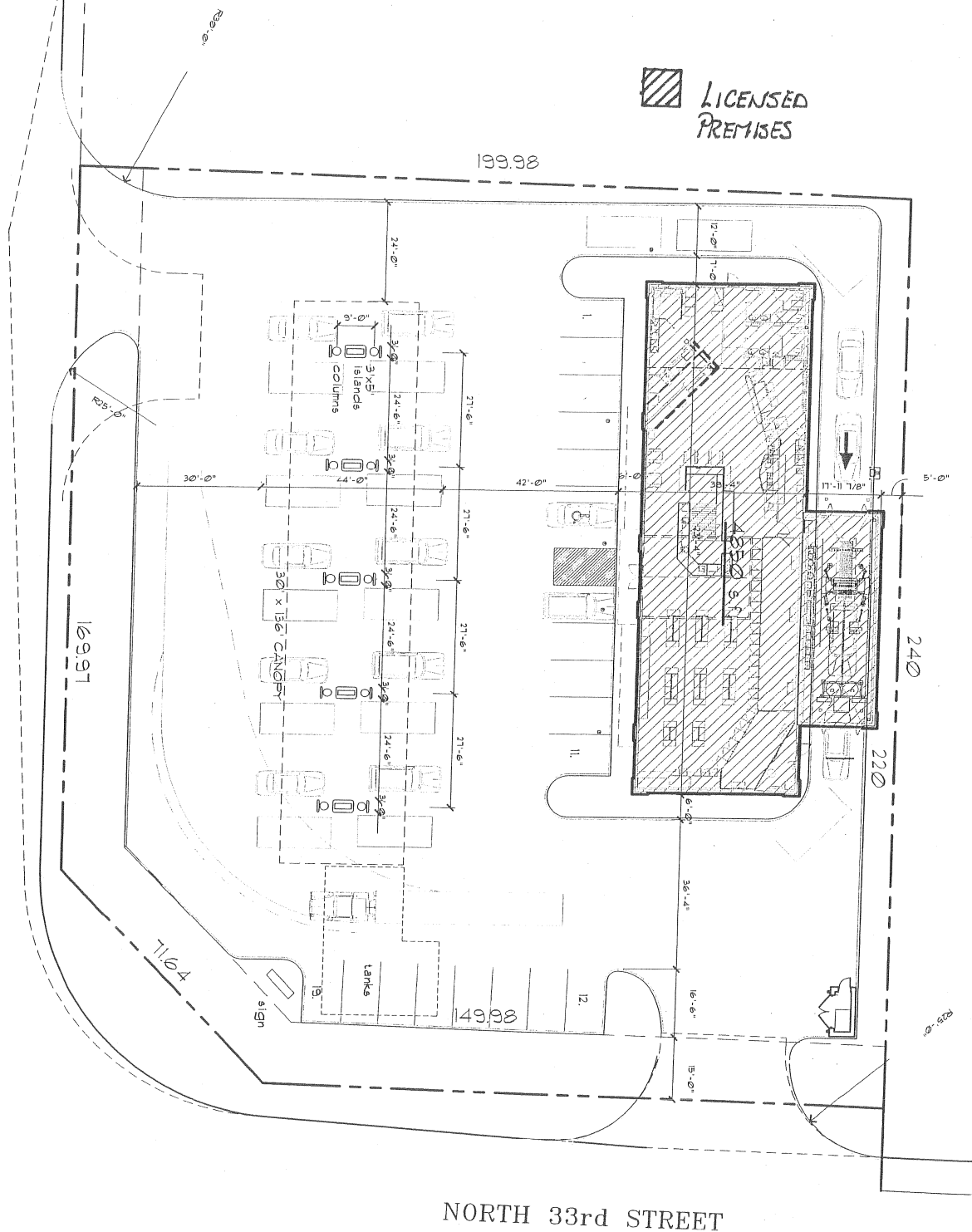
Whitehead Oil Company will operate a U-Stop Convenience Store at 3280 Superior. Along with fuel and groceries we desire to engage in offsite alcohol sales. The U-Stop meets all requirements regarding its' proximity to residential and school locations. Whitehead Oil Company operates 20 U-Stop Convenience Stores in Lincoln that are licensed to engage in offsite alcohol sales.

Kent Jagers  
Whitehead Oil Company  
CFO

**SITE PLAN**

**SUPERIOR STREET**

**LICENSED PREMISES**



**NORTH 33rd STREET**



**CL**

DATE  
8-31-2005  
REVISIONS

PROJECT NO.  
PP-042  
DRAWN BY  
J.S. JPS

**ADA**

**Architectural Design Associates P.C.**  
Suite 105 7501 'O' Street Lincoln, NE 68510 Phone (402) 486-3232



**WHITEHEAD 66**  
NORTH 33rd AND SUPERIOR LINCOLN NE